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## Understanding the Proposed Individual Cost of Acquisition

*"Making Price Competition Illegal for Connecticut Retailers"*

### The Impacts of an Irregular Price Floor

#### **Introduction**

Over recent years we have had great opportunity to evaluate many of the regulations that have been challenged in the Connecticut Liquor industry. Through the Competitive Pricing Task Force Study put forth in 2012, and up to this current session there has been much review and testimony. As minimum pricing has been a focus of the past we have chosen to use the following information to express our concerns on the proposed changes in *HB 14*. The following contains our analysis based on the evaluation of all included information and the testimony put forth at the public hearing on previous *bill HB 6361 in 2013*. Because the proposed changes are the same in this current session, as you will view in the coming pages, we encourage you to follow *closely* as we feel our examples help to shed *further* light on the far reaching impacts and very likely outcomes of the proposed change of "minimum price" in *HB 14* and its effects on Connecticut's many independent retailers, small brand manufacturers, suppliers and the communities and consumers they serve in our local economy. Our findings have been established by the proposed and *clarified* definition of **cost of acquisition** as the suggested alcohol beverage price floor.

#### **Supporting Documents**

Below you can view snippets of both past and present proposals.

**Current Bill: HB 14, February 2016**

## AN ACT ENSURING THE REGIONAL COMPETITIVENESS OF CONNECTICUT'S LIQUOR PRICES.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. Section 30-68m of the general statutes is repealed and the following is substituted in lieu thereof (Effective July 1, 2016):

(a) For the purposes of this section:

(1) "Cost" for a retail permittee means (A) for alcoholic liquor other than beer, the [posted bottle price from the wholesaler] actual cost paid per bottle by the retail permittee to the wholesaler, plus any charge for shipping or delivery to the retail permittee's place of business paid by the retail permittee, [in addition to the posted price,] and (B) for beer, the lowest posted price during the month in which the retail permittee is selling plus any charge for shipping or delivery to the retail permittee's place of business paid by the retail permittee in addition to the price originally paid by the retail permittee; and

(2) "Retail permittee" means the holder of a permit allowing the sale of alcoholic liquor for off-premises consumption. [; and]

[(3) "Bottle price" means the price per unit of the contents of any case of alcoholic liquor, other than beer, and shall be arrived at by dividing the case price by the number of units or bottles making up such case price and adding to the quotient an amount that is not less than the following: A unit or bottle one-half pint or two hundred milliliters or less, two cents; a unit or bottle more than one-half pint or two hundred milliliters but not more than one pint or five hundred milliliters, four cents; and a unit or bottle greater than one pint or five hundred milliliters, eight cents.]

(b) No retail permittee shall sell alcoholic liquor at a price below his or her cost.

(c) Notwithstanding the provisions of subsection (b) of this section, a retail permittee may sell one beer item identified by a stock-keeping unit number or one item of alcoholic liquor other than beer identified by a stock-keeping unit number below his or her cost each month, provided the item is not sold at less than ninety per cent of such retail permittee's cost. A retail permittee who intends to sell an item below cost pursuant to this subsection shall notify the Department of Consumer Protection of such sale not later than the second day of the month such item will be offered for sale.

### Conclusion

The "cost of acquisition" in the language proposed is in fact the cost of the "individual retailers acquisition" whether that cost be by "the bottle" or by "the case" which leads to the further conclusion that each retailer, whether they purchase by the bottle or by the case, has a *unique* price floor that they will legally be "bound" to by the proposed statutes. That price floor will also reflect *when* the retailers products were purchased by "the case" *not solely* "the bottle" and at what price they were purchased for during the course of the years many different posted sale months which you can note in the coming examples. Please remember the new language does not *mandate* a wholesaler to charge a retailer the same price by the bottle as by the case or even the same discounted price from *month to month* for cases or bottles. These prices, both bottle and case, are subject to *change* monthly. If that is the final conclusion then how does the "cost of acquisition" factor on a *case to case* basis? How is this more than bottles verses case prices? How would this proposal affect competition and selection in Connecticut? Does all this have further reaching implications?

### Impacts of mandated irregular price floor

Due to the newly proposed definition of cost, a retailer that sells below their own "personal cost of acquisition" would be violating the newly proposed liquor statutes defined by the "cost of acquisition" and *breaking the law* because they are "bound" by their individual purchase price from the wholesaler.

So how is this new proposal bigger than bottles verses case prices?

In the coming example you will begin to gain a perspective on how cost of acquisition, as the proposed minimum price floor, could greatly affect *consumer choice* and competition by *strongly encouraging* the redirection of purchasing habits for Connecticut's many *diverse* and independent retailers. The following illustration will demonstrate how the cost of acquisition as a price floor is *bigger* than *bottles verses case price purchasing* but also *case to case price purchasing* depending on the time and volume length that a product is purchased for by the case. Please note the examples in the upcoming table to help clarify that these changes have far reaching impacts and are *more complex* than *simply* case and *bottle* purchasing as they would make competing on a *price to price* bases an "illegal" infraction for retailers who don't commit to long range purchasing or can't simply afford to do so.

### Wholesalers Table Example

# Allan S. Goodman, Inc. - Pricing

Send					Cc:				
Prod #	Price Increase	Product Description	Size	Buy	Feb Case	Mar Case	Apr Case	May Case	Jun Case
SPIRITS									
9881	0	FINLANDIA VODKA	.750ML	30 Day	35	0	35	0	0
17205	0	SMIRNOFF COCKTAILS	1.75LT	90 Day	31	0	25	0	31
11622	0	STOLICHNAYA VODKA 80 PR.	1.75LT	90 Day	48	6	6	6	72
23760	0	WALKER PEPPERMINT SCHNAP 60 PR	.750ML	Over 90	30	12	18	18	18
4723	24	TULLAMORE DEW	.750ML	Over 90	42	24	18	18	18

In the first listing above, Finlandia Vodka has a posted sale price of 35 dollars for the month of February. That "case price" savings then changes to 0 dollars in March as the product is not on sale and at a full case price. Finlandia shows no posted sale price again until 30 days later in April and no foreseeable sale price listed for the future on the wholesaler's price sheet.

The next listing of another *nation brand*, Smirnoff Cocktails, is an example of a **90 day posted sale item**. If a retailer *can't afford* to buy or chooses not to dedicate his purchasing dollars toward Smirnoff Cocktails for 3 months, or *even runs out early*, the retailer would be left to purchase a case at a full case price in March or May, or a reduced sale price in April of 25 dollars. Although Smirnoff features the lowest price on each 90 day extension of 31 dollars the following Stolichnaya Vodka does not run the same pattern and has an irregular "**cost of acquisition**" available to the retailer over the 90 day period. You will notice the case price changes from a 48 dollar discount to only a 6 dollar discount for 3 months moving finally to a deeper posted sale price of 72 dollars *off* highlighted in the month of June. Wholesalers many times post *irregular* sale prices for 30, 90, and over 90 days to retailers for *cases*. There is a difference between what the case to case price is each month and months ahead. *It is not summed up simply as the same bottle prices versus the same case prices* as bottle prices and case prices are subject to change as illustrated.

Finally, you can view examples of an **over 90 day purchase** in the last listings. Walker Peppermint Schnapps is posted 30 dollars in February, 12 in March and 18 until June. Tullemore Dew Whiskey follows a similar irregular pattern; however, it has a price increase that factors into the "**cost of acquisition**" in the far left of the table highlighted for the month of February. That 24 dollar price increase and deep sale price may cause some retailers to purchase a product for *months* or even a *full year*, dedicating more dollars to capture the lowest cost leaving room for *fewer* items. All of these correlate to the individual "**cost of acquisition**" as prices change by the case, not *solely* by the bottle, affecting the available purchase cost in each month and each retailer's own opportunity to buy creating separate and irregular "**mandated**" price floors from each retailers *unique* point of purchase.

## Considering impact factors

All the factors illustrated in the previous examples have an impact on each individual retailers *cost of acquisition*. When they buy a product, *how long* they can afford to purchase and warehouse each product, and how much space they can dedicate to each selection on their retail shelves and floor. *This is not simply a relationship of a bottle price and a case price*. Bottle and case purchasing, as has been illustrated, are just one element of the equation when it comes to the "**cost of acquisition**" that will be "**binding**" for Connecticut's retailers under HB 14. These defining purchase points will change how retailers view competition, what they focus their purchasing dollars on and what they have on their store shelves for consumers in variety.

Since competing will be now "**prohibited**" on a dollar to dollar basis, *unless* a retailer receives the matching price of his competitors, the market will *forcefully* charge a change for retailers, suppliers and manufactures. As purchasing dollars are refocused consumers will be left with fewer choices as the variety they have become accustomed to will be *limited* by the expanded presence of national brands driven by the competition of national retailers who are best suited for the new mandate.

This new environment, which will be *vigorously* shaped by the mandate created in HB 14, is a winner for all that is *big*, both brand manufacturer and box retailer. The support from the industry goliaths of DISCUS and national purveyors *fortifies* that through the small change in language of "**cost of acquisition**" and its "**binding**" *anticompetitive* nature that *they* have the opportunity to captured a greater segment of the marketplace and be bigger than ever before in Connecticut.

The rest of us, as locally owned businessmen and woman, hope that you recognize our immense value to Connecticut's local economy as native entrepreneurs providing our communities with added tax revenues, employment, and greater community reinvestment, while serving our fellow residents with the best *mix* of variety, convenience and price

Thank you for your consideration

From the members of the Connecticut Small Brand Council.